

राजस्टैंड नं० एस० एम० 14.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 31 जुलाई, 1976/9 श्रावण, 1898

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATION

Simla-171002, the 29th July, 1976

No. 5-2/72-LR.—The Himachal Pradesh Warehouses Bill, 1976 (Bill No. 16 of 1976) after having received the assent of the President of India

1478 असाधारण राजपत्र, हिमाचल प्रदेश, 31 जुलाई, 1976/9 श्रावण, 1898

on the 17th July, 1976, is hereby published in the Rajpatra, Himachal Pradesh, as Act No. 28 of 1976.

M. C. PADAM,
Under Secretary (Judicial).

Act No. 28 of 1976.

THE HIMACHAL PRADESH WAREHOUSES ACT, 1976

AN
ACT

to provide for the regulation and licensing of warehouses in the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India as follows,—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Warehouses Act, 1976.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of State of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “co-operative society” means a society registered or deemed to have been registered under any law providing for registration of such societies;

(b) “depositor” means a person who has deposited goods with a warehouseman for storing, and includes any person who lawfully holds the receipt issued by the warehouseman in respect of such goods and derives title thereto by a proper endorsement or transfer thereof to him by the depositor or the depositor’s lawful transferee;

(c) “goods” means any of the articles specified in the Schedule to this Act:

Provided that the Government may, by notification in the Official Gazette, add to or omit from the Schedule any article;

(d) “Government” means the Government of Himachal Pradesh;

(e) “licensed warehouse” means a warehouse licensed under this Act;

(f) “person” includes any company or association or body corporate;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “receipt” means a warehouse receipt in the prescribed form issued by a warehouseman to a person depositing goods in the warehouse;

(i) “warehouse” means any building, structure or other protected enclosure which is or may be used for the purpose of storing goods on behalf of the depositors but does not include cloak rooms attached to hotels, railway stations, the premises of other public carriers, and the like;

(j) “warehouseman” means a person, who has obtained licence under this Act, in respect of his warehouse;

(k) “warehousing” means the business carried on by a warehouseman under licence granted under this Act and in accordance with such terms and conditions thereof as may, from time to time, be prescribed.

CHAPTER II

LICENSING OF WAREHOUSES

Warehouse-
man.

3. No person shall carry on the business of warehousing except under licence granted under this Act and in accordance with such terms and conditions thereof as may, from time to time, be prescribed.

Application
for grant
of licence.

4. (1) Every application for a licence under section 3 shall be made in the prescribed form to the prescribed authority.

(2) The prescribed authority may, on receiving such application and on payment of such fees as may be prescribed, grant a licence.

Conditions
of licence.

5. (1) Before granting a licence the prescribed authority shall satisfy itself—

(a) that the warehouse is suitable for proper storage of the class or classes of goods in respect of which the licence has been applied for;

(b) that the applicant is financially sound;

(c) that the applicant has paid the fee prescribed for the licence and has also paid or given the prescribed security, if any:

Provided that where the applicant is a corporation established under the Warehousing Corporation Act, 1962, no such security shall be required:

Provided further that the Government, by notification in the Official Gazette, for reasons to be recorded in writing therein, may exempt, wholly or partially, any applicant or class of applicants from all or any of the conditions mentioned above.

Term and
renewal of
licence.

6. Every licence granted under section 4 shall be valid for the prescribed period, and may, on application and payment of the prescribed fee, be renewed from time to time by the prescribed authority and for the prescribed period, provided the other conditions referred to in section 5 continue to be fulfilled.

Notice of
refusal to
grant or
renew licence.

7. If the prescribed authority refuses to grant or renew a licence under the foregoing provisions, it shall record its reasons for such refusal in writing and communicate the order to the applicant by forwarding a copy thereof.

Suspension
and cancellation
of licence.

8. (1) Every licence granted under section 4 or renewed under section 6 shall be liable to be suspended, cancelled or revoked either temporarily or permanently by the prescribed authority for valid reasons stated in writing and in particular if the warehouseman—

(a) has applied for being declared or been adjudicated an insolvent, or
(b) has parted, in whole or in part, with his control over the warehouse, or

(c) has ceased to conduct the business of such a warehouse, or

(d) has in any other manner become incompetent to conduct the business of such warehouse, or

(e) has contravened, or failed to comply with, any of the conditions of the licence or any of the provisions of this Act or the rules made thereunder.

(2) If a licence is suspended, revoked or cancelled the prescribed authority shall make an entry to that effect in the licence.

9. (1) Before passing order for suspension, revocation or cancellation under section 8, the prescribed authority shall give notice to the warehouseman stating the ground on which it is proposed to suspend, revoke or cancel his licence and call upon him to show cause why the proposed action should not be taken.

Notice of suspension and cancellation of licence.

(2) After considering the explanation, if any, of the warehouseman, the prescribed authority may pass such orders as it deems fit.

10. When a licence expires or is suspended, revoked or cancelled, the warehouseman shall cease to work as such and shall return the licence to the prescribed authority, who shall give reasonable time to the warehouseman to enable him to wind up the business or, who may acquire the business in the manner as prescribed.

Return of licence.

11. (1) Where a licence granted to a warehouseman is lost, destroyed, torn or defaced or otherwise becomes illegible, the prescribed authority shall issue a duplicate licence on the application of the warehouseman and on payment of the prescribed fee.

Duplicate licence.

(2) When a duplicate licence is issued, it shall be clearly stamped "Duplicate" and shall be marked with the date of issue of the duplicate and that of the original from the record of the office issuing the licence.

CHAPTER III

DUTIES OF WAREHOUSEMAN

12. Every warehouseman shall take such care of the goods deposited with him as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

Reasonable care of goods deposited.

13. (1) Every warehouseman shall keep his warehouse clean and free from damp, take all necessary precautions against rats and other pests, and fulfil such other conditions as may be prescribed.

Precaution against damage or injury to goods.

(2) No warehouseman shall accept such goods for deposit as are likely to cause damage to other goods which are, or may be deposited, in the warehouse.

14. Every warehouseman shall keep the goods of one depositor separate from the goods of other depositors and from other goods of the same depositor for which a separate receipt has been issued, in such a manner as to permit at all times the identification and delivery of the goods deposited:

Preservation of identity of goods.

Provided that where standardised and graded goods are stored in a warehouse, then, subject to any agreement between the warehouseman and a depositor, the same variety of goods belonging to different depositors may be stored together and each depositor shall be entitled only to his portion of the goods according to weight or quantity, as the case may be, as shown in his receipt.

15. (1) Whenever goods deposited in a warehouse begin to deteriorate, he shall forthwith give notice of such fact to the depositor requiring him to take delivery of the goods immediately, after surrendering the receipt duly discharged and paying all charges due to the warehouseman.

Goods deteriorating in warehouse and their disposal.

Explanation.—Loss of weight or bulk by shrinkage, dryage or gain in weight or bulk by absorption of moisture shall be deemed to amount to deterioration within the meaning of this sub-section, if the loss or gain exceeds such limits as may be prescribed.

(2) If the depositor does not, within a reasonable time as prescribed, comply with a notice given to him under sub-section (1), the warehouseman may cause the goods to be removed from the warehouse and sold by public auction on such conditions as may be prescribed at the cost and risk of the depositor.

(3) Any person having an interest in any goods deposited in a warehouse or in the receipt for such goods may inform the warehouseman in writing of the fact and nature of his interest and the warehouseman shall keep a record thereof; and if such person requests in writing that intimation be given to him regarding the condition of the goods and agrees to pay the charges for giving such intimation, the warehouseman shall give him intimation accordingly.

Delivery of goods.

16. (1) Every warehouseman, in the absence of any reasonable excuse, shall, without unnecessary delay deliver the goods deposited in his warehouse to the depositor on demand made by him and surrender of the receipt duly discharged and payment of all charges due to the warehouseman.

(2) Subject to any agreement between the warehouseman and the depositor, the depositor may take partial delivery of the goods deposited in a warehouse.

Liability of warehouseman for storage or excess in goods stored.

17. (1) For the purposes of sub-section (1) of section 15 and of section 16, loss of weight or bulk by dryage or shrinkage within prescribed limits and gain in weight by absorption of moisture within such limits shall not be deemed to amount to deterioration.

(2) If there is any excess in the goods stored in a warehouse by absorption of moisture or other causes, the warehouseman shall not be entitled thereto.

(3) If there is any shortage in the goods stored in a warehouse by dryage or other causes beyond his control, the warehouseman shall not be responsible therefor.

(4) In the event of a dispute arising as to whether such shortage or excess is due to dryage or absorption of moisture or is due to other causes beyond the control of the warehouseman, the matter shall be referred to the appellate authority referred to in section 29 whose decision thereon shall be final and binding.

Insurance of goods in warehouses.

18. (1) Goods in warehouses shall be insured against loss or damage by fire, rain, floods, theft, riot, or civil commotion, or any other prescribed event, in such manner as may be prescribed.

(2) Every warehouseman shall be entitled to recover from the depositor, at the rate prescribed the charges for insurance in respect of depositors' goods before the delivery thereof, and the warehouseman shall have a lien on the said goods in respect of such charges.

Discrimination prohibited.

19. No warehouseman shall, in the conduct of his business, discriminate between persons desiring to avail themselves of the facilities of his warehouse:

Provided that the warehouseman shall show such preference to co-operative societies in the State and allow them such concessional rates as may be prescribed.

Warehouseman not to deal in or deal against goods in warehouse.

20. Notwithstanding anything contained in any other law for the time being in force, no warehouseman, other than a co-operative society or the Central or any State warehousing corporation set-up under the Warehousing Corporation Act, 1962, shall either on his own account or that of others,

deal in, or lend money on, goods received by him for deposit in his warehouse.

21. A warehouseman shall maintain accounts, books and record in such form and manner as may be prescribed.

Accounts,
etc. to be
maintained.

CHAPTER IV

INSPECTION AND GRADING OF GOODS

22. The prescribed authority may, at any time, during business hours, inspect or examine or cause to be inspected or examined any licensed warehouse, its machinery and equipment goods deposited therein, and the account books and records relating thereto, for the purpose of satisfying itself that the requirements of this Act and the rules made thereunder are being complied with.

Inspection.

23. (1) The prescribed authority may, on application made in the prescribed manner and on payment of the prescribed fee, issue licences to persons possessing the prescribed qualifications, entitling them to act as weighers, samplers and graders of any goods deposited or to be deposited in a licensed warehouse and to issue certificates as to the weight, bulk, quality or grade of the goods which they have examined.

Weighers,
samplers
and graders
to obtain
licences.

(2) The prescribed authority may appoint a Board of Arbitrators whose decision on any complaint against weighers, samplers and classifiers or warehouseman relating to weight, quality or the grade of the goods stored in the warehouse shall be final. The certificate issued by weighers, samplers, and classifiers as to weight, quality or grade of the goods stored in the warehouse shall be binding on the warehouseman and the depositor subject to any order in appeal preferred by them to the Board of Arbitrators.

(3) No person who is not licensed under this section shall act, or hold himself out, as a weigher, sampler or grader.

24. (1) Every licence granted to a weigher, sampler or grader under section 23 shall be valid for the prescribed period and may, on application and payment of the prescribed fee, be renewed from time to time for the prescribed period by the prescribed authority.

Provisions
regarding
such licences.

(2) The prescribed authority may cancel any such licence after communication to the licensee the grounds on which it is proposed to take action and giving him a reasonable opportunity of showing cause why the proposed action should not be taken.

(3) The prescribed authority may suspend any such licence without such notice after recording in writing its reasons therefor.

(4) The holder of any such licence shall on the expiry thereof or the receipt of an order suspending or cancelling it, return the licence to the prescribed authority.

25. Every warehouseman shall provide facilities for weighing, sampling and grading any goods deposited or to be deposited in his warehouse.

Facilities
to be given
for weigh-
ing goods
etc.

CHAPTER V

WAREHOUSE RECEIPTS

26. For the goods deposited in his warehouse by each depositor, the warehouseman shall issue a receipt which shall contain full particulars of the goods and be in the prescribed form.

Receipt to
be issued.

Receipt for deposits in warehouse.

27. The receipt issued by a warehouseman shall, unless, it is otherwise specified thereon, be transferable by endorsement and shall entitle its lawful holder to receive the goods specified in it on the same terms and conditions as the original depositor.

Duplicate receipt.

28. If a receipt is lost, destroyed or damaged, the warehouseman shall on application by the depositor and payment by him of the prescribed fee, issue a duplicate receipt on such conditions as he may think fit to impose, being conditions included in the rules made under this Act.

CHAPTER VI

MISCELLANEOUS

Appeals against certain orders of prescribed authority.

29. (1) An appeal against any order of the prescribed authority refusing to grant or renew a licence or suspending, revoking or cancelling any such licence in receipt of a warehouseman shall be made to such authority and within such time as may be prescribed.

(2) The decision of such appellate authority on such appeal shall be final.

No compensation for suspension or cancellation of licence.

30. Where any licence is suspended, revoked or cancelled under this Act, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to refund of any fee paid by him for the licence.

Contracts and agreements inconsistent with Act to be void.

31. Every contract or agreement which is inconsistent with the provisions of this Act or rules made thereunder shall, to the extent of such inconsistency, be void.

Penalty and procedure of warehouseman.

32. (1) Whoever—

(a) acts or holds himself out, as a licensed warehouseman without having obtained a licence under this Act; or

(b) knowingly contravenes or fails to comply with any of the provisions or requirements of the Act or the rules made thereunder;

shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Disputes relating to warehouseman.

(2) Where a person committing an offence under sub-section (1) is a company or an association or body of persons whether incorporated or not, the manager, secretary, agent or other principal officer managing the affairs of such company, association or body shall be deemed to be guilty of such offence.

Forfeiture of security.

33. The prescribed authority would be entitled to forfeit the security of the warehouseman, in case the warehouseman fails to return the goods deposited within the reasonable time as provided under sections 10 and 16 of the Act and the forfeited security may be used in full or part payment of the damages or losses incurred by the depositor on account of such failure of the warehouseman.

34. The Government may, by notification in the Official Gazette, exempt any class of warehouses from all or any of the provisions of this Act. Power of Government to grant exemption.

35. (1) The Government may, by notification, make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of foregoing power such rules may provide for—

- (a) the matters expressly required or allowed by this Act to be prescribed;
- (b) the form of licences to be granted to a warehouseman;
- (c) the publication of the grant, suspension, revocation or cancellation of licences to warehousemen and of consolidated lists of warehousemen and licensed warehouses;
- (d) the charges to be levied by warehousemen for their services;
- (e) the books, accounts and records to be maintained by warehousemen;
- (f) the conduct of public auctions for the sale of goods deteriorating or about to deteriorate in licensed warehouses and the manner in which the proceeds of such sales shall be accounted for;
- (g) the scales of losses and gains of weight or bulk which may be sustained by goods owing to shrinkage or dryage in the one case and owing to absorption of moisture in the other;
- (h) the disinfections of licensed warehouses and the disinfection of goods stored therein;
- (i) the circumstances in which any security or bond furnished by a warehouseman may be forfeited, and the manner in which any sum falling due as a result of such forfeiture may be recovered;
- (j) the efficient conduct generally of the business of warehousemen;
- (k) the qualifications to be possessed by persons applying for the grant of licences as weighers, samplers or graders, the conditions to be inserted in their licences, the form of the certificates to be issued by them and the grounds for which the licences may be suspended or cancelled;
- (l) the standard weights, measures and gradations of goods to be used in licensed warehouses;
- (m) the authority to which and the time within which an appeal under section 29 should be made;
- (n) the manner of giving notices under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session aforesaid, the Assembly makes any modifications in the rule or decides that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

36. (1) The Punjab Warehouses Act, 1957 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation, 1966, and the Orissa Warehouses Act, 1956, as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, *vide* notification No. G.S.R. No. 105 dated the 23rd January, 1960, are hereby repealed.

2 of 1958
31 of 1966
4 of 1957,

(2) Notwithstanding such repeal, any order made under the Acts so repealed and in force immediately before the commencement of this Act shall be deemed to have been made under this Act, and shall, in so far as it is not inconsistent with the provisions of this Act, continue in force and accordingly any appointment made, licence or permit granted or direction issued under any such order and in force immediately before such commencement shall continue in force until and unless it is superseded by any appointment made, licence or permit granted or direction issued under this Act.

THE SCHEDULE

[See section 2 (c)]

GOODS TO WHICH THE ACT APPLIES

Foodgrain.—Wheat, Maize, Gram, Barley, Oats, Rice, Bajra.

Pulses.—Mung, Mash, Moth, Masur, Kulth, Peas, Beans.

Oil seeds.—Soyson, Toria, Groundnuts, Till, Linseed, Cotton, Cotton-Seed.

Vegetables.—Potatoes, Tomatoes, Onion, Chillies.

Herbal produce.—Dhoop, Karu and Violet-flowers.

Others.—Gar, Shakkar, Apples, Plums, Peach, Ginger (including dry ginger), Lemon, Kuth, Chilgoza, Dias Correa.

Fodder.—Senjee, Metha, Barseem, Cahtalla, Chari, Guwara, Oats, Bhusa.